



**STATE OF NEW JERSEY**

In the Matter of J.L.M., Police Officer  
(S9999A), North Bergen

CSC Docket No. 2021-490

**FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION**

Medical Review Panel Appeal

**ISSUED: AUGUST 6, 2021 (BS)**

J.L.M., represented by Robert K. Chewning, Esq., appeals his rejection as a Police Officer candidate by North Bergen and its request to remove his name from the eligible list for Police Officer (S9999A) on the basis of psychological unfitness to perform effectively the duties of the position.

This appeal was brought before the Medical Review Panel (Panel) on February 19, 2021, which rendered its Report and Recommendation on February 26, 2021. Exceptions were filed on behalf of the appellant.

The report by the Panel discusses all submitted evaluations. It notes that Dr. Ackerman Sinclair, evaluator on behalf of the appointing authority, conducted a psychological evaluation of the appellant and characterized the appellant as “cooperative and well-mannered” during his interview and presenting with no history of mental health treatment or financial problems. Dr. Sinclair indicated that the appellant worked as a full-time Class II Police Officer for the North Bergen Police Department beginning in July 2017, but that his hours were reduced to part-time due to the pandemic.<sup>1</sup> The appellant had no history of terminations. However, Dr. Sinclair noted that the appellant was the subject of an Internal Affairs investigation due to a March 2019 incident where he struck a pedestrian with his vehicle while off-duty and fled the scene of the accident. Following the

<sup>1</sup> Agency records indicate that the appellant was appointed part-time in the unclassified title of Special Law Enforcement Officer with North Bergen effective June 19, 2017.

Internal Affairs investigation, the appellant was suspended for 30 days. In addition to the summons he received in March 2019 for leaving the scene of an accident, the appellant was issued a total of four vehicle summonses, including a summons for having tinted windows. Dr. Sinclair stated that the appellant continued to drive the vehicle with tinted windows, despite receiving a summons for doing so. Dr. Sinclair did not recommend the appellant for appointment to the subject position.

The Panel's report also indicates that Dr. Robert Kanen, evaluator on behalf of the appellant, carried out a psychological evaluation. Dr. Kanen indicated that the appellant presented with no history of "temper control problems" and denied any history of mental health treatment or terminations from employment. The appellant also had no points against his driver's license at the time of Dr. Kanen's evaluation. Dr. Kanen noted that the appellant believed he did not pass the psychological evaluation for the subject position due to his involvement in the March 2019 hit-and-run accident in which he struck a pedestrian and drove away without seeing if anyone was injured. The appellant characterized his actions as "extremely dumb and a poor decision." Dr. Kanen indicated that the appellant functioned within the average range of cognitive ability and, as assessed by the psychological testing, was in the category to be likely recommended for public employment and likely to meet expectations in several areas of law enforcement. Dr. Kanen concluded that, in his opinion, the March 2019 accident was an isolated incident and did not warrant the appellant's rejection from employment as a law enforcement officer. Dr. Kanen stated that the appellant was psychologically suitable for employment as a Police Officer.

The evaluators on behalf of the appellant and the appointing authority arrived at differing conclusions and recommendations. However, the Panel determined that the record supported Dr. Sinclair's concerns regarding the incident in which the appellant left the scene of an accident after hitting a pedestrian and not correcting illegally tinted windows on his vehicle after being ticketed for that violation. The appellant reported to the Panel that he was "unaware" that there were two women at the incident and that one of them had been injured when he decided to leave the scene of the accident "to avoid a confrontation." The Panel noted that police work often involves effectively managing confrontational situations. With regard to the tinted windows, the Panel indicated that the appellant was issued a summons for this offense in the summer of 2019 but continued to operate the vehicle with tinted windows until November 2020, well over a year since he was cited for having illegal tints. The Panel found that the appellant's decision not to address the tinted windows for a lengthy period of time was not the conduct expected of a Police Officer. The Panel concluded that the test results and procedures and the behavioral record, when viewed in light of the Job Specification for Police Officer, indicated that the appellant is mentally unfit to perform effectively the duties of the position sought, and therefore, the action of the

appointing authority should be upheld. Therefore, the Panel recommended that the appellant be removed from the subject eligible list.

In his exceptions, the appellant asserts that the Panel's recommendation was made "without consideration for other material facts," including the appellant's work as a Class II Police Officer, his remorse over the March 2019 accident, and that North Bergen did not terminate him after the failed psychological evaluation with Dr. Sinclair. The appellant further contends that the appointing authority has "failed to establish the validity of its psychological report" in that the raw psychological test data generated from tests administered by Dr. Sinclair contradicts her concerns regarding the appellant's impulsivity, integrity, stress tolerance, and decision making. He argues that Dr. Sinclair makes her conclusion despite indicating that "the test profile is deemed indeterminate and no objective evidence of psychopathology or emotional stability can be gleaned." The appellant emphasizes the positive findings of Dr. Kanen regarding his background and that he is likely to meet the necessary expectations for the subject position. He respectfully requests that the Civil Service Commission (Commission) re-instate him to the subject eligible list or refer him for an independent psychological evaluation to establish his psychological suitability.

### CONCLUSION

The Job Specification for the title of Police Officer is the official job description for such municipal positions within the Civil Service system. The specification lists examples of work and the knowledge, skills and abilities necessary to perform the job. Examples include the ability to find practical ways of dealing with a problem, the ability to effectively use services and equipment, the ability to follow rules, the ability to put up with and handle abuse from a person or group, the ability to take the lead or take charge, knowledge of traffic laws and ordinances, and a willingness to take proper action in preventing potential accidents from occurring.

Police Officers are responsible for their lives, the lives of other officers and the public. In addition, they are entrusted with lethal weapons and are in daily contact with the public. They use and maintain expensive equipment and vehicle(s) and must be able to drive safely as they often transport suspects, witnesses and other officers. A Police Officer performs searches of suspects and crime scenes and is responsible for recording all details associated with such searches. A Police Officer must be capable of responding effectively to a suicidal or homicidal situation or an abusive crowd. The job also involves the performance of routine tasks such as logging calls, recording information, labeling evidence, maintaining surveillance, patrolling assigned areas, performing inventories, maintaining uniforms and cleaning weapons.

The Commission (Commission) has reviewed the Job Specification for this title and the duties and abilities encompassed therein and finds that the psychological traits which were identified and supported by test procedures<sup>2</sup> and the behavioral record relate adversely to the appellant's ability to effectively perform the duties of the title. The Commission is not persuaded by the exceptions filed by the appellant nor his attempts to minimize his March 2019 hit-and-run accident in which a pedestrian was injured. The appellant was working as a Class II Police Officer at the time of this incident, and therefore, his leaving the scene of the accident is particularly egregious and indicative of extremely poor judgment for someone who aspires to a career in law enforcement. The appellant emphasizes Dr. Kanen's positive findings. Dr. Kanen concluded that the March 2019 hit-and-run accident was an isolated incident and should not warrant the appellant's rejection from employment as a law enforcement officer. However, the Commission notes that the Law Enforcement Examination (S9999A) had a closing date of August 31, 2019 and was administered on November 2, 2019. The resulting eligible list promulgated on May 15, 2020 and the appellant was certified from the list on that date. The incident in question occurred within the year of the appellant applying for and taking this examination. Such a lapse of judgment so close to consideration for appointment cannot be ignored or countenanced.

In addition to disregarding the safety of the public and the law by leaving the scene of the March 2019 accident, the appellant further disregarded the law by driving his vehicle with tinted windows for over a year after being cited for that violation. The Commission is mindful that the community expects individuals who aspire to careers in law enforcement to be held to a higher standard of personal accountability. Despite his employment as a Class II Police Officer, the appellant exhibited extremely poor judgment in the two instances at issue, and as such, he does not meet the higher standard expected of those who seek to serve as a Police Officer.

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<sup>2</sup> While both Dr. Kanen's and Dr. Sinclair's testing may have revealed some positive results for the appellant's candidacy, the Commission notes that testing must also be reviewed in conjunction with the behavioral record. Furthermore, as set forth in Dr. Sinclair's conclusion: "[p]sychological test data supports the conclusions about this candidate. The subject was significantly elevated on the Positive Impression Management scale (PIM Incumbent T = 63, Community T = 75). He has responded to the PAI [Personality Assessment Inventory] in such a defensive and minimizing fashion that his test profile cannot be used to rule out the presence of counterproductive traits and characteristics. He approached the test in a very guarded and defensive manner, denying even ubiquitous human shortcomings and/or flaws. This score is found in less than 1% of incumbent [P]olice [O]fficers (N>23,000). Hence, this test profile is deemed indeterminate and no objective evidence of psychopathology or emotional stability can be gleaned." As such, while the appellant quotes Dr. Sinclair's last statement as not supportive of the test results, her analysis provides further context of her statement and that the appellant's testing supports her conclusion to reject the appellant for the subject position.

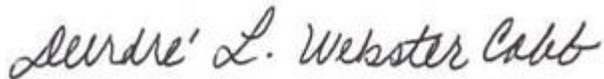
With regard to the appellant's request for an independent psychological evaluation, the Commission finds no circumstances on which to grant such a request. The record supports his removal from the subject eligible list. Therefore, having considered the record, including the Job Specification for Police Officer and the duties and abilities encompassed therein, and the Panel's Report and Recommendation issued thereon and the exceptions filed by the appellant, and having made an independent evaluation of the same, the Commission accepts and adopts the findings and conclusions as contained in the Panel's Report and Recommendation. Accordingly, the appellant's appeal is denied.

### ORDER

The Commission finds that the appointing authority has met its burden of proof that J.L.M. is psychologically unfit to perform effectively the duties of a Police Officer, and therefore, the Commission orders that his name be removed from the subject eligible list.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 4<sup>TH</sup> DAY OF AUGUST, 2021




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Deirdre L. Webster Cobb  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence:

Allison Chris Myers  
Director  
Division of Appeals  
and Regulatory Affairs  
Civil Service Commission  
Written Record Appeals Unit  
P.O. Box 312  
Trenton, New Jersey 08625-0312

c: J.L.M.  
Robert K. Chewning, Esq.  
Allen Pascual  
Drew D. Krause, Esq.  
Division of Agency Services  
Records Center